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SUBJECT: CHAVEZ'S LONG ARM CHOKES JUDGES AND PROSECUTORS

REF: CARACAS 00620

Classified By: Ambassador Charles S. Shapiro for Reason 1.4(d).

SUMMARY:

1. (C) Recently fired chief prosecutor Ramon Medina told poloff March 9 that the Attorney General's Office is increasingly focused on solidifying Chavez's hold on domestic institutions. Medina, a long-time contact of the Embassy's LegAtt and PAS offices, said he was dismissed because he resisted GoV pressures to dismiss cases or bring charges against Chavez's political enemies. One of the three trial judges dismissed by the Supreme Court of Justice (TSJ) for ordering some detained anti-GoV protestors released told poloff March 10 that the court system was becoming more corrupt and open to manipulation by political pressure or threat. The recent dismissals of prosecutors and judges signal greater GoV manipulation of the justice system and further centralization of power in the executive. End Summary.

Top Prosecutor Fired For Resisting GOV Manipulation

2. (C) During a March 9 meeting with poloff, recently fired prosecutor Ramon Medina said he had received indirect warnings to change his political "attitude," warnings he regarded as blatant attempts to manipulate his decisions to support the Chavez regime's domestic political agenda. Medina was dismissed in late February from his position as an office director in the Office of the Attorney General (Fiscalia), where he supervised over 500 prosecutors, or over 70 percent of the nation's public prosecutors. (Note: Medina is a long-time contact of the Embassy's Legatt and participated in a PAS-sponsored Voluntary Visitors program in 2003 in which representatives of several Venezuelan law enforcement offices traveled to the U.S. for meetings with counterparts to review practices for establishing an inter-agency anti-terrorism force. End Note.) The Attorney General's office also dismissed Director of Procedural Action Carmen Alguindigue and Human Rights Division director Magaly Malpica (reftel). Medina and Alguindigue were fired outright. Malpica was allowed to retire early.

3. (C) Medina said Venezuelan Attorney General Attorney General Isias Rodriguez, applied pressure to dismiss cases, disqualify certain prosecutors, or bring specific charges against Chavez's political targets. Medina said he himself was finally targeted because he would not cooperate. When he saw the writing on the wall, Medina offered to resign his position as an office director, but instead he was fired completely. Attorney General Rodriguez himself made the final decision. Medina charged that the Attorney General's Office is now focused entirely on solidifying Chavez's hold on domestic institutions and eliminating any perceived domestic political threat. Contacts with foreign governments are being reduced, hampering cooperation on issues such as international terrorism. The Attorney General's Office, he said, is "armoring" itself from any influence from the outside.

Politics Dictates Charges, Stymies HR Investigations

4. (C) Medina said there are no formal criteria regarding charges to prosecute opposition protestors detained during the unrest stretching from February 27 through March 6. Instead, prosecutors are using their own judgment to bring charges such as disrupting public order or environmental (non-criminal) offenses for setting up burning street barricades. Charges for civil rebellion, he said, are rarely supported by actions during street demonstrations and therefore are obviously politically-motivated.

Judges Dismissed with Pressure from Executive

15. (C) On March 10 Judge Maria del Carmen Trastory Hombre provided poloff with a copy of the order signed by TSJ Chief Justice Ivan Rincondissmissing her from her position as a Caracas criminal judge. Trastory is one of three trial judges dismissed by the Supreme Court of Justice (TSJ) March 2 for ordering some detained anti-GoV protestors released. Miguel Angel Luna, another of the dismissed judges, told poloff March 10 that speaking with a USG official could ruin his chances of getting his job back and would not agree to meet. Petra Jimenez, the third dismissed judge, was unavailable.

16. (C) Trastory said she ordered six detained opposition demonstrators released March 2 because the GoV had provided insufficient evidence to support the detentions. Some detainees were arrested on charges of creating a "danger of a catastrophe," but the facts presented did not indicate any significant public danger. Others were arrested for "resisting authorities," but the facts alleged only that the demonstrators were running away from GoV troops. Trastory said this was insufficient under the law to support such a charge, and not nearly strong enough to overcome the citizens' right to demonstrate guaranteed under Articles 68, 219 and 221 of the Venezuelan constitution. Trastory also recalled that the detainees in question showed evidence of having been beaten by authorities after arrest. One victim was severely bruised on his back from his neck down the length of his spine. Trastory said she remains confident in her decision based on her fourteen years of criminal law experience (nine years as a prosecutor and her five years as a criminal judge).

Political Moves Against the Judiciary

17. (C) Trastory said that, as is the case in the U.S., when a prosecutor does not agree with a judge's ruling, the normal procedure is to file a motion to stay the order with a higher court pending a judicial appeal of the ruling. In this instance, however, GoV officials resorted to a political move, dismissing the judges rather than going through legal channels to appeal the decisions.

18. (C) The odd manner in which the decision was made makes Trastory sure the decision to dismiss her is politically motivated. While the TSJ's Chief Justice signed the order, Trastory is sure the order came from a Chavez ally in the GoV executive branch such as Vice President Jose Vincente Rangel or Minister of Infrastructure Diosdado Cabello. She noted that her court is located in Sucre State, where the local mayor is Jose Vincente Rangel Avalos, the Vice President's son. She also said she signed the petition seeking the recall of Chavez in December 2003 and had since been targeted by Rangel and pro-Chavez activists seeking to purge the court.

19. (C) Trastory asserted that the court system was becoming more and more corrupt and open to manipulation by political pressure. Many corrupt judges, she said, were willing to receive political favors or payments, or succumbed to threats, to rule in a manner preferred by the GoV. The shrinking number of independent judges, she said, are increasingly afraid of retribution.

Comment

10. (C) Keeping a lid on trial judges and prosecutors will strengthen Chavez's hand as he tries to punish opposition demonstrators and discourage further protests by strengthening the public perception that GoV security forces can attack or imprison demonstrators with impunity. Chavez clearly hopes this will make opposition activists think twice before challenging GoV forces in the streets. Perhaps of greater concern, the recent dismissals of prosecutors and

judges signal greater GoV manipulation of the justice system, willingness to force out officials who refuse to support the chavista political agenda, and centralization of power in the executive.

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